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BWS PROPERTIES, LLC,)
)
Plaintiff,)
) 1:24-cv-00029
vs.) Judge Christopher Steger
) Non-Jury
AIRGAS USA, LLC,)
)
Defendant.)

DEPOSITION OF PETER VAN SLYKE, JR

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1 through the first part of this. I'm mainly focused on
2 the latter portion, which are topics that BWS has
3 identified for the 30(b)(6) depositions, one of which is
4 yours today. And I want to just walk through the topics
5 to confirm which topics you are prepared to testify to
6 today as a representative of Airgas.

7 First, if you'll take a look at 5, 6 and 7 on this
8 page. If you wouldn't mind reading through those and
9 just letting me know when you've had a chance to do so.

10 A Okay. I've read through them.

11 Q Are you prepared today to testify on Airgas's
12 behalf to 5, 6 and 7?

13 A Yes.

14 Q Can you tell me what you did to prepare to testify
15 on those three topics? Again, not asking for any
16 communications with counsel, but wanting to know what you
17 did to prepare.

18 MR. ROBISON: And, Jessica, I don't want to
19 jump in too much, but because Mr. Van Slyke's tenure at
20 the company was less than the entire period defined as
21 the tenancy period in these topics, he will have
22 testimony to these topics, and there may be additional
23 testimony from Mr. Harvey for a period of time
24 corresponding to prior to Mr. Van Slyke's employment. I
25 just wanted to make that clear.

1 I don't know that it's going to matter, but
2 since he only joined the company in 2020 and the tenancy
3 period as defined in the notice topics goes back to '05,
4 I just wanted to make that clear.

5 Q And I'll just go ahead and repeat my question
6 Mr. Van Slyke. For 5, 6 and 7, are you prepared to
7 testify to those topics today? And what did you do to
8 prepare for those?

9 A Yes, I'm prepared to discuss these topics. And I
10 haven't done anything one would call preparing for
11 answering these questions.

12 Q Did you look at any documents in preparation -- or
13 look at any documents in preparing for today's deposition
14 relating to 5, 6 and 7?

15 A No.

16 Q And I'm not asking for any, again, communications
17 with counsel. I will continue to repeat that. But did
18 you meet with counsel in preparation for today's
19 deposition?

20 A Did I physically meet with them?

21 Q Whether in person or via Teams or Zoom, did you
22 have a meeting with counsel?

23 A I talked to counsel, yes.

24 Q Did you talk with anyone else, either at Airgas or
25 a third party, about 5, 6 and 7 in preparing for this

1 deposition?

2 A No.

3 Q We'll scroll down. And the reason I'm skipping
4 some of these other ones is counsel has not indicated
5 that you were to be prepared on these other topics. I'll
6 ask another question about that shortly, but I'm going to
7 skip those to expedite matters.

8 If you can please read through numbers 20 through
9 24. Please take your time. Once you've had time to do
10 so, please let me know.

11 A Okay. I've read through -- I think you said 21
12 through -- did you say 21 through 23?

13 Q 20 through 24.

14 A Okay. I've read them.

15 Q Having reviewed numbers 20 through 24 in the
16 notice, are you prepared today to testify on Airgas's
17 behalf to those topics?

18 A Yes.

19 Q And what did you do to prepare to testify to those
20 topics?

21 A Nothing.

22 Q Did you look at any documents prior to today's
23 deposition and in preparation for today's deposition
24 relating to topics 20 through 24?

25 A No.

1 Q And did you speak with anyone, whether at Airgas
2 or a third party -- again, not asking about
3 communications with counsel -- in preparation for or
4 regarding topics 20 through 24 or facts relating thereto?

5 A No.

6 Q And lastly, if you'll please read through numbers
7 26 and 27. Again, please take your time, but let me know
8 when you've had a chance to do so.

9 A Okay. I've read through them.

10 Q And then for 26 and 27, are you prepared today to
11 testify on Airgas's behalf as to those topics?

12 A Yes.

13 Q And similar to before, did you review any
14 documents or speak to anyone, whether a third party or
15 within Airgas -- not asking for counsel communications --
16 in preparation for testifying to those two topics?

17 A No.

18 Q And in preparing for today's deposition, were
19 there any documents that you thought might be relevant
20 that you went searching for that you have not provided to
21 counsel?

22 A No.

23 Q Just to confirm, are you aware and do you
24 understand that today's deposition is in relation to a
25 lawsuit regarding Airgas's lease of certain property

1 located at 700 Manufacturers Road in Chattanooga,
2 Tennessee?

3 A Yes.

4 Q And if I refer to the property at 700
5 Manufacturers Road as "the property," will you understand
6 that I'm referring to that specific property?

7 A Yes.

8 Q Can you describe for me, please, Airgas's business
9 at the property from June 1, 2022 through June 1, 2023?

10 A Airgas operated what we call a retail branch at
11 the property. Would you like for me to go into detail?

12 Q Yes, please.

13 A So, the retail business would consist of most --
14 the most important part would be the delivery of assets
15 in the form of cylinders on Airgas trucks to various
16 customers throughout the greater Chattanooga area. Also,
17 on the property we had a showroom where customers could
18 come in and purchase welding and safety materials, more
19 often than not for contractor work on job sites.

20 Q And can you tell me about -- and if it's not
21 different from what you just described, you can say that
22 as well. But prior to June 1, 2022, back to January of
23 2005, what was Airgas's business on the property?

24 A I cannot definitively tell you what the business
25 was prior to July 12 of 2021. I can assume that it was

1 exactly as I've explained to you it was from the time of
2 my employment to now, but I don't have any -- I wasn't
3 there, so I can't tell you definitively.

4 Q Just to confirm, from July 12, 2021 until June 1,
5 2023, what was Airgas's business on the property?

6 A Retail sales and, of course, like I said, the
7 delivery -- I guess it isn't retail, this is business to
8 business. Delivery of compressed gas cylinders to
9 various customers throughout the greater Chattanooga
10 area.

11 Q And I'm going to show you what we're going to mark
12 as Exhibit 2.

13 ([Exhibit 2](#) will be marked.)

14 Q Did you see a map pop up on the screen?

15 A I do.

16 Q And again, if there's any part that you can't see
17 or need me to zoom in on, please let me know. I'm happy
18 to do so.

19 Can you walk me through, please, in order, 1, 2,
20 3, and 4, what business Airgas conducted in each of the
21 buildings on this map?

22 A Building 1 is the main building. That is where
23 the retail showroom was, various sales offices, and what
24 we call the warehouse. Building 2, I believe that is
25 what we call the welding repair facility. And building

1 3, I think it was just a storage shed, as memory serves
2 me. And building 4 is what we refer to as the gas house.

3 Q And for building 1, can you tell me the employees
4 between June 1, 2022 and June 1, 2023 that would've
5 worked in that building, including their job titles?

6 A I'll do my best. Some people -- drivers did have
7 access to that building, and I may not be able to
8 remember all of them. But, myself; Corley Johnson,
9 branch manager; Bradley Jackson, assistant branch
10 manager; Joseph Holland, inside sales I believe was his
11 title; Brian Gilliland, also inside sales; Tracy Harvey,
12 outside sales; David Millians, outside sales; Dillon
13 Alexander, outside sales. And the drivers, there was a
14 driver named Mike Brown, there was a driver named David
15 LeQuire, and I cannot remember the other two drivers that
16 had access to the building.

17 Q And other than the people that you just identified
18 for building 1, prior to June 1 of 2022 back until the
19 start of your employment, July 12, 2021, were there any
20 other individuals that were employed by Airgas and worked
21 in building 1, again that you've not already listed?

22 A I don't think so, no.

23 Q And just to confirm, you're not aware of who may
24 or may not have been employed in building 1 prior to the
25 start of your employment July 12, 2021?

1 A That is correct.

2 Q For building 2, can you please identify the
3 employees of Airgas that worked in that building,
4 including their job title?

5 A The only person that I can remember being
6 associated with building 2 was a guy named Steve Benton,
7 and he was the welding repair specialist.

8 Q Although that may be a little self-explanatory,
9 can you go ahead and explain to me what exactly it is
10 that Mr. Benton did?

11 A To my knowledge, customers would send welding
12 machines to him that were not performing correctly, and
13 he would fix them and make them perform correctly again.

14 Q And when you say "customers," are these
15 individuals, businesses, internal Airgas individuals?

16 A Primarily business customers of Airgas, and
17 individuals also sent their machines in for repair.

18 Q And just for my understanding, so if there was an
19 individual who lived, you know, two doors down from the
20 location, could they bring their equipment in to get it
21 repaired?

22 A Yes.

23 Q And then I believe, as you had mentioned, building
24 3 was primarily used for storage. Just to confirm, was
25 there anyone, as far as you're aware, that worked inside

1 building 3?

2 A Not that I'm aware of.

3 Q So in building 4, which of Airgas's employees
4 worked in building 4, including their job title, from
5 June 1, 2022 until June 1, 2023?

6 A So, virtually any of the employees that worked or
7 were associated with building 1 had access to building 4.
8 The primary people that would have used building 4
9 would've been inside sales and route drivers.

10 Q And can you describe for me the job duties and
11 responsibilities of individuals employed in outside sales
12 for Airgas?

13 A Outside sales primary responsibility is to
14 maintain business relationships with current business
15 customers, and, of course, attempt to grow the revenue
16 generated from those relationships in the form of sales.

17 Q And can you describe the job duties and
18 responsibilities of individuals employed in Airgas's
19 inside sales at the property?

20 A Yes. So, inside sales personnel are responsible
21 for answering the phone, taking customer orders, calling
22 customers to follow up on quotes if they requested
23 pricing. Inside sales also assists the drivers, and
24 inside sales -- some inside sales personnel also are
25 responsible for what we call routing the trucks. In

1 other words, telling the drivers where they're going to
2 go on any given day.

3 Q And then, it might be self-explanatory, but just
4 to confirm, can you tell me the job duties and
5 responsibilities of Airgas's route drivers at the
6 property?

7 A The route drivers responsibility is to, of course,
8 drive products that we sell, primarily in the form of
9 compressed gas and liquid gas cylinders, on the back of
10 the trucks and deliver them to various customers
11 throughout, in this case greater Chattanooga. They do
12 also deliver what we call hard goods, which could be
13 things like welding wire. Any kind of heavy items that
14 can't be -- that need to be delivered by a big truck,
15 they also do that. That's what they do.

16 Q And are you aware of either a report or database
17 or files that would be able to assist us in understanding
18 who was employed by Airgas at the property prior to July
19 12, 2021?

20 A I am not aware of such report, no.

21 Q Any records or database where we could request
22 that information?

23 A Not that I'm aware of. I'm not saying it doesn't
24 exist, I'm just saying I don't know where it would be.

25 Q Was there an employee on the property employed by

1 Airgas that was responsible for attaining and
2 coordinating an individual or entity to clean the inside
3 of buildings 1, 2 and 4 during June 1, 2022 through June
4 1, 2023?

5 A There was an individual responsible for building
6 1. I cannot speak to anything along those lines for
7 building 2 or building 4.

8 MS. WOLINSKY: Can we go off the record for a
9 minute?

10 (9:46 to 9:50 off the record.)

11 BY MS. WOLINSKY:

12 Q I'm going to just re-ask one of the questions that
13 I asked in the midst of a coughing fit.

14 Can you tell me again, was there an entity or an
15 individual that was employed by Airgas specifically
16 responsible for retaining and coordinating with someone
17 to clean the inside of building 1?

18 A Building 1, yes.

19 Q Who is the Airgas employee that was tasked with
20 that responsibility?

21 A His name was Corley Johnson.

22 Q And then between June 1, 2022 until June 1, 2023,
23 who was the company or the individual retained by Airgas
24 to clean building 1?

25 A I do not remember who the company was.

1 Q What was the budget given to Airgas for cleaning
2 building 1 on the property from June 1, 2022 through June
3 1, 2023?

4 A I don't believe there was any budgeted numbers.
5 We -- when I say "we," I mean Corley Johnson and myself,
6 had discretionary spending on lawn care services and
7 cleaning services.

8 Q And can you explain for me what you mean by
9 discretionary spending?

10 A We could hire a company to come in and clean the
11 building and take care of the landscaping. And it
12 wasn't -- we didn't have to get it -- however much it
13 cost, we didn't have to get it approved by another
14 entity.

15 Q Could that discretionary budget have been used for
16 something else instead of cleaning and outdoor care?

17 A Probably not. I would need to know what that
18 something else would be, but probably not.

19 Q And what cleaning parameters were provided to --
20 strike that. Was the employees in building 1,
21 specifically Mr. Johnson and yourself, were you given any
22 instructions on how building 1 should be cleaned or to
23 what standard it should be cleaned?

24 A I wasn't. I cannot speak for Corley Johnson.

25 Q And then when was the last time that the inside of

1 A I am not.

2 Q Who got to -- or who decided how to use that
3 discretionary budget for the property?

4 A Typically it's the branch manager.

5 Q Just to confirm, that's Mr. Johnson?

6 A Correct.

7 Q Was there an Airgas employee that was responsible
8 for retaining and coordinating someone, whether an
9 individual or entity, to perform maintenance tasks at the
10 property from June 1, 2022 through June 1, 2023?

11 A Not that I was aware of, no.

12 Q Did Airgas retain any individual or entity to
13 perform maintenance tasks at the property during that
14 same time period?

15 A Not that I recall, no.

16 Q And then, was there an Airgas employee that was
17 responsible for actually performing maintenance tasks at
18 the property during that time period?

19 A No.

20 Q Prior to the June 1, 2022 date, dating back to
21 2005, are you aware of Airgas retaining any individual or
22 entity to perform maintenance tasks at the property,
23 whether inside or outside?

24 A I can only tell you that I heard people talk of
25 events in the past where some maintenance was called in

1 to do work on the property, but I did not see it myself.

2 Q And can you just tell me what you're aware of
3 based on that, those communications?

4 A Apparently there was a hailstorm. I don't know
5 the year. Way before my time there. And it caused
6 significant damage to the property, and Airgas had to --
7 again, I don't know details, but I believe they basically
8 redid the entire showroom and the office areas, the
9 inside sales office areas. That's really all I know
10 about it.

11 Q And who was it that told you about that?

12 A Well, more than one person actually, but the
13 primary source of that information was Tracy Harvey.

14 Q And if you recall, who else other than Tracy
15 Harvey happened to talk about that or mentioned it to
16 you?

17 A Bradley Jackson, Corley Johnson, David Millians.
18 Those are the individuals I recall.

19 Q Was Airgas given a budget for maintenance at the
20 property for June 1, 2022 through June 1, 2023?

21 A Not a formal budget, no. I would say if there
22 was -- well, no. I'm just going to say no.

23 Q If there were repairs that needed to be done on
24 the property, where would money for that come from?

25 A So, the branch manager has what we call a P card,

1 a purchasing card. And he -- assuming it was under a
2 certain dollar amount, he could put it on his P card.
3 For repairs that were more significant in cost, to be
4 honest with you, I'm not sure who approved that. I don't
5 think we ever -- we never had anything like that, so I
6 never considered it.

7 Q What's the max amount that could've been put on
8 the P card for one maintenance project?

9 A I'm not sure of that exactly. I believe the limit
10 on the card itself is 5' or \$10,000.

11 Q And once money is put on that P card, where does
12 the money come from to pay off that amount on the P card?

13 A The branch's P&L statements.

14 Q During the June 1, 2022 through June 1, 2023 time
15 period, did Airgas damage any part of building 1?

16 A Could you tell me those time frames again, please?

17 Q Absolutely. June 1, 2022 through June 1, 2023.

18 A No.

19 Q Are you aware of repairs needing to be made in
20 building 1 between June 1, 2022 and June 1, 2023?

21 A There was -- inside the building there were -- the
22 drop ceiling had collapsed in some of the offices. Those
23 are the only repairs that I was aware of that probably
24 needed to be addressed.

25 Q Were there garage doors that needed to be repaired

1 in building 1 between June 1, 2022 and June 1, 2023?

2 A I was not aware of any garage doors that needed to
3 be repaired.

4 Q Were there regular individual people doors that
5 needed to be repaired on building 1 between June 1, 2022
6 and June 1, 2023?

7 A Not that I was aware of, no.

8 Q Was the VCT flooring in building 1, which I
9 believe is primarily in the offices, was that VCT in need
10 of maintenance or repair between June 1, 2022 and June 1,
11 2023?

12 A Not to myself. I didn't think it was, no. Now, I
13 never spent a great deal of time contemplating that
14 either though.

15 Q Prior to June 1, 2022, are you aware of Airgas --
16 actually strike that. Between January 2005 and June 1,
17 2022, did Airgas cause damage to any part of the
18 property, whether buildings 1, 2, 3, 4, or the outside of
19 the property?

20 A Again, I can only speak on the date of July 12,
21 2021 through the last date you mentioned. And in that
22 time, no, not that I was aware of.

23 Q Let's talk a little bit about -- we've briefly
24 mentioned it, Airgas leaving the property as of
25 effective, I believe, June 1, 2023, the lease terminating

1 May 31, 2023, as I represent to you. If you have any
2 questions about that, please let me know. But to
3 expedite things, let's talk a little bit about that
4 termination and departure from the property.

5 Were the employees and individuals who worked at
6 the property given a budget for moving off of the
7 property?

8 A Not a formal budget. Not a formal budget, no.

9 Q Can you explain what you mean by it wasn't a
10 formal budget?

11 A We spent money similar to the way I described any
12 repairs that needed to be made. We rented dumpsters and
13 trucks with P cards, at least as far as I'm aware. The
14 branch manager did all that. I believe he used his P
15 card for all of it, at the branch's expense.

16 Personnel, Airgas personnel were paid, obviously,
17 for their additional time, just like it would be regular
18 overtime.

19 Q Did Airgas hire a moving company to assist with
20 moving off of the property?

21 A No, they did not.

22 Q Why not.

23 A Well, I can't speak to the thoughts of my boss's
24 bosses, but I believe they thought that we could -- it
25 was something that Airgas personnel, with rented

1 equipment, could easily handle on their own.

2 Q Was there a budget for making any repairs to the
3 property resulting from or prior to vacating the
4 property?

5 MR. ROBISON: Object to form.

6 A If there was, it was not -- up to this point I've
7 talked -- basically what I've been trying to say was the
8 branch spent money as it needed to on repairs. If there
9 was a budget for this, it would've been from what we call
10 our division chiefs. And I believe -- yes, I think there
11 was.

12 Q And when you say from your division chiefs, can
13 you explain what you mean by that?

14 A Well, it was out -- when we vacated the
15 property -- when I say "we," I mean the branch, myself
16 and all the teammates of the branch, the stuff that
17 transpired after that tended to be handled by the
18 division and not the branch. Or excuse me. Not the
19 division. That's not the right nomenclature. It
20 would've been the region. Not the division, the region.

21 Q So just to make sure I'm understanding. So
22 there's a point in time at which it changes from the
23 local to more of a regional control?

24 A That's the way I understood the process, yes.

25 Q And then we've talked about this a little bit, but

1 just to confirm, was there a budget provided for cleaning
2 the property after Airgas vacated the property?

3 A No, there was not.

4 Q Did Airgas retain anyone to either clean or make
5 repairs at the property after -- when Airgas had vacated
6 the property?

7 A To my knowledge, no.

8 Q Which Airgas employee was responsible for ensuring
9 that utilities to the property were either turned off or
10 transferred back to BWS?

11 A To be perfectly honest, I'm not sure. It was
12 either myself or Corley Johnson, the branch manager.

13 Q And maybe let me ask it a little bit different
14 way.

15 Who actually turned off or transferred the
16 utilities that went to the property upon Airgas vacating
17 the property?

18 A No one.

19 Q There was no one at Airgas that coordinated or
20 ensured that the utilities were turned off or
21 transferred?

22 A I believe an attempt was made. I believe an
23 attempt was made, but as memory serves me it was not
24 transferred until sometime after Airgas had vacated the
25 property.

1 Q And was that done by Airgas or was that done by
2 someone else?

3 A I believe it was done by Airgas.

4 Q At what point after Airgas had vacated the
5 property did they coordinate or have transferred or
6 turned off the electric to the property?

7 A I'm not aware. I don't know when the electric was
8 done.

9 Q And then at what point was the water either turned
10 off or transferred at the property?

11 A I'm not aware of that time.

12 Q And then the same question but relating to gas
13 that goes to the property.

14 A So the gas, I know that that was a bit of a
15 process, and I did get involved in that personally. And
16 it seems, if memory serves me correct, it was a couple of
17 weeks after we vacated the property that it was finally
18 transferred to BWS.

19 Q We'll show you what we'll mark as Exhibit 3.

20 ([Exhibit 3](#) will be marked.)

21 Q Are you able to see the text messages on the
22 screen?

23 A I can see them, yes.

24 Q Are these text messages between yourself and a
25 representative of BWS Properties?

1 A Yes, they are.

2 Q And who is that representative that you spoke
3 with?

4 A Ms. Jenny Nevans.

5 Q And is this relating to changing over the gas at
6 the property?

7 A It is.

8 Q And what is the date on the first text in this
9 text string?

10 A Does that say 11/28/2023?

11 Q Yes. And I'll read it to you. It says, "Hi,
12 Jenny. Did you have any luck with the gas company"; is
13 that correct?

14 A Yes, it is.

15 Q And so how long after Airgas had vacated the
16 property are you checking in on the gas at the property?

17 A I never checked in on the gas until I was pulled
18 into this discussion right here from other personnel at
19 Airgas.

20 Q Let me pull up one. You mentioned -- I'm actually
21 not going to pull that one up. You mentioned other --
22 that there were other communications and you were pulled
23 in at a later point. Tell me about the process of you
24 getting pulled into that conversation and the
25 circumstances that resulted in you being pulled in to

1 coordinate gas?

2 A As my memory serves, I believe Corley Johnson told
3 me that we had attempted -- "we" being Airgas, had
4 attempted to have the gas transferred to BWS on at least
5 one occasion, perhaps two, and the gas company showed up
6 and they could not get into the property to do whatever
7 they needed to do to make that happen. Therefore, I
8 reached out to Ms. Nevans and asked -- to try to
9 coordinate a time where she could be there and the gas
10 company could be there so she could allow them on the
11 property to do the transfer.

12 Q And how did you become aware of at least the
13 potential that for some reason the property wasn't opened
14 for the gas company to access it?

15 A I believe when the gas company reported back to us
16 that they had attempted to switch ownership of the gas
17 from Airgas to BWS and they could not gain access to the
18 property and let us know that.

19 Q And just to confirm, who was it that in the end
20 met the gas company at the property to have the gas
21 switched over?

22 A As far as I know, Ms. Nevans.

23 Q Why did it take as long as it did for Airgas to
24 realize that the gas -- they had not changed the gas over
25 or turned it off?

1 MR. ROBISON: Object to form.

2 THE WITNESS: Shall I proceed?

3 MR. ROBISON: Go ahead.

4 Q Yes.

5 A I don't know. I believe that the utilities of the
6 property were dealt with by a different department within
7 Airgas. I could be wrong about this. And I believe
8 nobody, at least locally, thought about it until we were
9 notified by a different department from Airgas that we
10 were still being charged for the gas, even though we had
11 vacated the property.

12 Q Was a final walk-through of the property performed
13 after Airgas had terminated the lease and had purportedly
14 finished moving from the property?

15 A There was.

16 Q And when did that walk-through occur?

17 A I do not remember a specific date. A few days
18 perhaps or a week after we vacated -- after Airgas
19 vacated the property.

20 Q And who was present for that walk-through?

21 A Myself and Ms. Jenny Nevans.

22 Q And can you describe for me what happened and the
23 communications that occurred during that walk-through?

24 A Sure. When I got there Ms. Nevans was already
25 there. She was in the showroom, as I recall. And we

1 exchanged pleasantries, and we began walking the
2 property, discussing the status of the property, and
3 Ms. Nevans made observations about things that she did
4 not think were maintained properly. And I, you know, I
5 acknowledged her complaints. I took several pictures of
6 things that Ms. Nevans had brought up during the
7 walk-through, and I provided those pictures to the
8 regional personnel that I mentioned earlier. This is --
9 by now we're kind of, the local team is kind of done.
10 And that's pretty much it, that I recall.

11 Q And you mentioned sending those pictures to
12 regional personnel. Can you identify specifically who
13 those regional personnel were that received those photos?

14 A I believe I sent them to Dawn Van Dyke. And I
15 could've sent them to others as well, but do not -- I
16 can't tell you that definitively.

17 Q And have those pictures been provided to counsel
18 for production?

19 A Oh, absolutely.

20 Q And again, not asking for any attorney
21 communications.

22 Can you describe for me -- and you mentioned it
23 briefly, but can you describe for me in more detail what
24 you saw on the property while walking around, starting
25 with building 1?

1 A I mentioned earlier that some of the drop ceiling
2 tiles were collapsed. In other words, kind of falling.
3 They weren't flat anymore, they were falling.

4 When we got out into the warehouse, Ms. Nevans
5 noticed some things that she was not satisfied with. I
6 cannot remember exactly what they were. I remember
7 spending a decent amount of time in the warehouse. And
8 then we were doing the walk around the property from the
9 outside, there was a lot of concern about certain parts
10 of the pavement or the asphalt on the property, which I
11 took several pictures of for documentation. And we also
12 looked at the weld repair center, and Ms. Nevans had some
13 concerns about that as well.

14 Q What were the concerns -- I'm sorry. Continue.

15 A I don't remember specifically.

16 Q Did you walk through building 4?

17 A Building 4, that would've been -- is that the gas
18 house, I think?

19 Q Yes, sir.

20 A Yes. Yes. That's right. We did go through the
21 gas house as well, correct. And Ms. Nevans pointed out
22 some things that she felt needed to have some attention
23 put to them in the gas house as well.

24 Q And what were those items?

25 A I remember broken windows, maybe some chunks taken

1 out of the concrete floor. That's all I can really
2 remember.

3 Q Other than Ms. Nevans mentioning those, the items
4 that you've identified, what other conversations did you
5 have with Ms. Nevans while completing the walk-through?

6 A I don't remember.

7 Q Did you provide anything to Ms. Nevans during the
8 walk-through?

9 A I gave Ms. Nevans, as I recall, two keys. And I
10 think we also produced -- or I produced a final
11 walk-through sheet, that I gave Ms. Nevans a copy of.

12 Q I'm going to show you what we're going to mark as
13 Exhibit 4.

14 ([Exhibit 4](#) will be marked.)

15 Q Do you see a document on your screen?

16 A I do.

17 Q What is the date of this letter?

18 A May 31, 2023.

19 Q And would that have been on or around the date
20 that the walk-through took place?

21 A It would've, yes.

22 Q And is this the letter that you -- or the form you
23 mentioned a moment ago that you provided to Ms. Nevans
24 during the walk-through?

25 A I believe it is, yes.

1 Q And if you need to take a moment to review, please
2 do so.

3 A Could you possibly zoom in a little bit on it?

4 Q Of course. I can zoom in more if you need me to.

5 A No, this ought to be good. Thank you.

6 Okay. Yes. I remember this document, yes.

7 Q Who drafted this document?

8 A I do not know. It was provided to me by somebody,
9 and I cannot remember who, from the regional offices. It
10 could've been Dawn Van Dyke, but I'm not sure.

11 Q I don't believe I've asked this. What is
12 Dawn Van Dyke's position with Airgas?

13 A I believe Dawn manages leased properties from the
14 Airgas perspective. I don't really know. I've never
15 talked to her about her job responsibilities. I just
16 know that during all this process of vacating the
17 property, I talked to her more than once on the phone and
18 maybe had a Zoom call with her at one point.

19 Q Is this letter signed?

20 A It is not.

21 Q Are you aware of a copy or -- strike that. Is
22 there a copy of this letter that you signed?

23 A I don't think so.

24 Q And what was the conversation that you had, if
25 any, with Ms. Nevans when you provided this letter to

1 her?

2 A As I recall, I said this is the final walk-through
3 letter. And I do believe I said something about that I
4 wasn't going to sign it and left it to her discretion if
5 she wanted to or not.

6 Q And did Ms. Nevans ever sign the letter?

7 A I don't believe so.

8 Q Did you leave a copy of the letter with Ms. Nevans
9 or did you present it to her and then --

10 A No. I'm sure I left a copy with her.

11 Q Did you inform anyone in Airgas's regional
12 management that neither yourself or Ms. Nevans had signed
13 the letter?

14 A I think I did.

15 Q Who did you tell?

16 A Maybe Chris Hopwood, the region president.

17 Q And can you tell me about that conversation?

18 A I don't remember any details, other than informing
19 Chris that I had done the walk-through and that this
20 document was not signed.

21 Q Did you tell him why it was not signed?

22 A Probably, but I do not remember any details of
23 that.

24 MS. WOLINSKY: Let's go ahead and take
25 another quick break.

1 (Recess from 10:27 to 10:40.)

2 BY MS. WOLINSKY:

3 Q I'm going to re-share my screen, going back to
4 [Exhibit 4](#), which is where we had left off. If you look
5 in the first paragraph of this letter, in the second
6 sentence, and it reads "Tenant is surrendering the leased
7 premises in accordance with paragraph 20 of the lease."

8 I'm not asking you to tell me about the lease
9 itself or to interpret any of those terms. But did
10 anyone at Airgas talk with you about how to or give
11 instructions about how to leave the property and
12 surrender the property so that it would be in accordance
13 with the lease or other requirements?

14 A Not to me, no.

15 Q Are you aware of them doing that with anyone?

16 A I don't think so, no.

17 Q I'm going to stop sharing my screen for the
18 moment.

19 What facts do you believe support, on Airgas's
20 behalf, that Airgas properly surrendered possession of
21 the property as of June 1, 2023?

22 A My understanding of the property is that, the
23 state it was in when we vacated it was pretty much the
24 same as the state it had been for years and years and
25 years, going all the way back to before Airgas owned it.

1 That's what I've been told by people that were around the
2 property far longer than I ever was.

3 Q And who was it specifically that told you that?

4 A Tracy Harvey would be the primary individual who I
5 would refer to.

6 Q Since he's the primary, who were the others that
7 you spoke with?

8 A David Millians, Corley Johnson, Bradley Jackson.

9 Q And you referenced generally that they had said or
10 referenced that it was like that for years and years and
11 years back before Airgas I think you maybe said owned it.
12 But dating how far back were they saying that that's what
13 the property looked like?

14 A Well, I mean, so I don't want to necessarily speak
15 for anybody. But the words I heard were that the
16 building had been there since the 1940s, it was never a
17 beautiful building, at least up until the '80s when some
18 of my colleagues had a relationship with the building.
19 And the way that they made it sound to me, it's an
20 industrial site, it's always looked like an industrial
21 site.

22 Q And were they talking about all the buildings?
23 Just some of the buildings?

24 A That's a good question. Probably mostly building
25 1.

1 Q And was there any reference in that to the repairs
2 and renovations done following the 2012 hailstorm?

3 A Could you repeat that, please?

4 Q Yes. You had said that they were potentially
5 referencing, more likely referencing mostly building 1.
6 Was that including the fact that the building had repairs
7 to it following a hailstorm that I'll represent to you
8 took place in or about 2012?

9 A I suppose, yeah.

10 Q So after the walk-through that we talked about
11 that you conducted with Ms. Nevans of the property once
12 Airgas had left, was there a subsequent walk-through that
13 Airgas conducted with an external individual?

14 A There was. Tracy Harvey and a general -- I'm
15 going to call it a general contractor, I guess that's
16 what he is -- I was told met Ms. Nevans at the property
17 and did a walk-through with Mr. Kevin Cruz in tow to
18 potentially offer repairs to, primarily building 1, but I
19 was not there so I can't tell you what all they looked
20 at.

21 Q And when or about when was that walk-through
22 conducted?

23 A I'm just taking a guess. Six weeks to eight weeks
24 after Airgas vacated the property. Could've been longer.
25 Could've been more like 10 weeks, 12 weeks.

1 Q And did Mr. Cruz, Kevin Cruz, provide an
2 assessment of or quote for repairing aspects of the
3 property?

4 A He most certainly did, yes.

5 Q What do you recall about that?

6 A I saw the proposal, and there were several line
7 items listed. Most of the stuff that I talked about here
8 today, things like repairing some drywall, repairing the
9 ceiling tiles. For some reason those two stick out.
10 There was much more. Maybe some general plumbing. A
11 menagerie of things, not to include anything -- I do know
12 that it was not including any asphalt repairs.

13 Q I'm going to show you what we're going to mark as
14 Exhibit 5.

15 ([Exhibit 5](#) will be marked.)

16 Q Did you see an email pop up on the screen?

17 A Yes.

18 Q This has a couple pages to it. I want to make
19 sure you're able to see it, so I'm going to just slowly
20 scroll through. Let me know if you need to see anything
21 for a longer period or if there's anything you would like
22 to go back to.

23 A If you wouldn't mind zooming a little bit, that
24 would be nice.

25 Q Absolutely.

1 A Thank you.

2 Q And just let me know when you're ready for me to
3 scroll down.

4 A I'm ready. Are you waiting for me?

5 Q Yes.

6 A I'm sorry. I'm ready. You can proceed.

7 Q There's just a little bit left at the bottom that
8 I'll scroll down to when you're ready.

9 A Okay.

10 Q And the rest is just his signature. Is this the
11 quote or assessment of costs provided by Kevin Cruz that
12 you referenced a moment ago?

13 A I believe it is, yes.

14 Q And it's dated October 19, 2023. Do you see that
15 line?

16 A I do.

17 Q Would it be that the walk-through was conducted in
18 or around October of 2023?

19 A Yes.

20 Q And now having seen this email, what else do you
21 recall about or do you know about the walk-through with
22 Mr. Cruz and the quote or assessment that was provided to
23 Airgas?

24 A Well, I mean, as you can tell from the email, once
25 I got the information I forwarded it to regional

1 officers. And that's -- I mean, I don't -- I can't think
2 of anything else worth saying about it.

3 Q Tell me about the conversations that you had with
4 others at Airgas regarding the quote you received from
5 Mr. Cruz?

6 A Well, I don't, I don't really remember any
7 conversations after I submitted this.

8 Q Did anyone else have meetings regarding or discuss
9 this quote with anyone else within Airgas or within at?

10 A Not locally. Not anybody that was part of my
11 team.

12 Q Was this quote provided to Ms. Nevans?

13 A If it was, it was not provided to Ms. Nevans by
14 me.

15 Q Did Airgas do anything else with this description
16 and quote provided by Mr. Cruz, other than review the
17 email?

18 A Your question was did Airgas?

19 Q Did Airgas do anything else with this quote and
20 scope of work provided by Mr. Cruz, other than read the
21 email?

22 A I do not know. After I submitted it to my bosses,
23 that's kind of the last I heard of it.

24 Q Did Airgas create any other internal assessment or
25 evaluation of the condition of or damage to the property

1 after June 1, 2022?

2 A I don't know.

3 Q Since June 1, 2022, has Airgas made any effort to
4 obtain quotes from third parties, other than Mr. Cruz, to
5 estimate the cost of repairing any aspect of the
6 property?

7 A Not to my knowledge.

8 Q Just a couple clarifying questions from earlier
9 after some additional thought. Just to clarify, who did
10 you report to in the 2022 to 2023 time frame?

11 A Before I reported to Jeff Mann I reported to Clay
12 Merrick.

13 Q And did Mr. Merrick have any input into or provide
14 any instruction to anyone on the property with Airgas
15 about terminating the lease or vacating the property?

16 A Not that I recall, no.

17 Q Other than the topics that we ran through at the
18 beginning of the deposition to confirm, are there any
19 other topics that you were prepared by counsel to testify
20 to today? Again, not asking for any specific
21 attorney-client communications.

22 A No.

23 Q Not wanting to know what any instructions were or
24 what communications there were. Did your counsel give
25 any instructions on how you should prepare for this

1 deposition?

2 A No.

3 Q Again, same clarifying. Don't want to know what
4 you talked about, but did counsel review the topics with
5 you and inform you what the topics were for which you
6 were going to be designated to testify today on behalf of
7 Airgas?

8 A Yes.

9 Q And did you follow any instructions that your
10 counsel gave you regarding preparation for or which
11 topics you were to testify to?

12 A Could you say that again, please?

13 Q Yes. Did you follow any of the instructions, if
14 given, by counsel regarding preparing for today's
15 deposition and educating yourself on the topics that were
16 identified?

17 MR. ROBISON: I probably do have an objection
18 there if it gets into communications between the deponent
19 and counsel.

20 Q Just a yes or no on that.

21 A No.

22 MR. ROBISON: Same objection.

23 MS. WOLINSKY: If you'll just bear with me,
24 I'm going to read through something real quick. This
25 will be the last thing that I have on the record, unless,

1 of course, Peter, meaning Mr. Robinson -- Robison -- I
2 think I need to ask for clarification. How do you
3 pronounce your last name?

4 MR. ROBISON: I say it "Raw-bi-son."

5 MS. WOLINSKY: "Raw-bi-son." Okay. I feel
6 very bad, because people mispronounce mine all the time.

7 And if you'll just bear with me and let me
8 finish reading this, and then we can proceed onward.

9 Before we conclude, on behalf of BWS, I just
10 want to state on the record that after receiving the
11 testimony of two witnesses who were designated
12 specifically as corporate representatives for Airgas with
13 respect to the majority of our 30(b)(6) notice topics, it
14 has become clear to us that the witnesses were not
15 properly prepared to testify on those topics for which
16 they were specifically designated in accordance with the
17 Federal Rules of Civil Procedure.

18 Specifically, Airgas does not appear to have
19 attempted to gather information or otherwise adequately
20 prepare the witnesses so that they could address the
21 notice topics on Airgas's behalf. Instead, the
22 designated representatives have repeatedly limited their
23 testimony to their own existing personal and individual
24 knowledge, and have testified that they have no knowledge
25 regarding the notice topics or portions thereof unless

1 relating to their personal individual knowledge.

2 These topics were noticed on April 8, 2025.
3 And through counsel for the parties -- and though counsel
4 for the parties met and conferred regarding the same on
5 April 14th, Airgas asserted no objection to the scope or
6 time frame of the topics at issue here, other than what
7 was discussed and clarified regarding privileged
8 information, which we did not want anyways.

9 Plaintiff therefore prepared for these
10 depositions under the assumption that the corporate
11 representatives would be properly prepared and able to
12 fully answer questions regarding the notice topics. In
13 accordance with the Federal Rules of Civil Procedure,
14 plaintiff therefore reserves the right to request that
15 the court compel Airgas to promptly produce witnesses
16 prepared to fully and completely testify on behalf of
17 Airgas with respect to the notice topics, or plaintiff
18 costs related to the 30(b)(6) depositions that have
19 already occurred, and order any other relief which the
20 court deems just and proper.

21 And with that --

22 MR. ROBISON: And on behalf of Airgas, Airgas
23 objects to the lengthy recitation made by my counsel for BWS
24 just now, and including some of the representations or
25 characterizations of testimony given by the witnesses and

REPORTER'S CERTIFICATE

STATE OF TENNESSEE:

COUNTY OF HAMILTON:

I, Sheila D. Wilson, Licensed Court Reporter #268 and Notary Public, in and for the State of Tennessee, do hereby certify that the deposition of Peter Van Slyke, Jr., was reported by me, and that the foregoing 56 pages of the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand this 26th day of May 2025?



Sheila D. Wilson, LCR #268
Expiration date: 6/30/2026.
Notary Public Commission
Expires: 1/17/2027.